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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,938	10/28/2003	Wai Hing Lai	016660-181	4311

21839 7590 06/03/2005

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EXAMINER
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JEFFERY, JOHN A

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/693,938

Applicant(s)

LAI ET AL.

Examiner

John A. Jeffery

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040412.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Withdrawal of Final Rejection – Prosecution Reopened***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and the finality of that action is withdrawn. Prosecution is hereby reopened and new grounds of rejection follow.

### ***Withdrawal of Allowability***

The indicated allowability of claim 10 is withdrawn in view of the newly discovered prior art cited below. The delay in citation of this art is regretted. Rejections based on the newly discovered prior art follow.

### ***Statutory Text in Previous Office Action***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

### ***Claim Rejections - 35 U.S.C. § 102***

Claim 10 is rejected under 35 USC 102(b) as being anticipated by Higgins (US 5,176,067). Higgins (US 5,176,067) discloses an electric grill comprising "body member" 14, "inner liner" 74, grill plate 22 supported thereon, and reflector 18 with integral "container" (flavor well) 46 adapted to contain a smoking element" (note flavoring agents placed in flavor well in col. 23, line 64 – col. 4, line 16). The nested

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mounting of each component of the apparatus as shown in Fig. 2 inherently meets the limitation calling for releaseable engagement.

Claim 11 is rejected under 35 USC 102(b) as being anticipated by JP3-125818. JP3-125818 discloses "body member" 6 supporting grill plate 8 for cooking food 9. Container 7 is adapted to contain a "smoking element" (oils emitted from food 9 during heating) which produces smoke when heated by light source 12. Note the disclosure of "oily smoke" in abstract.

***Claim Rejections - 35 U.S.C. § 103(a)***

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whitefield (US 6,035,770) in view of RU2073472. Whitefield (US 6,035,770) discloses an electric grill comprising a body member 14 supporting a grill plate 30, releasable cover 16, container 90 holding a smoking element (wood chips), and a first heating member comprising electric heating element 52 that heats the smoking element. The container is releasably engageable with the first heating member for replenishing the container. See Fig. 2-4 and col. 3, line 47 - col. 4, line 5.

The claims differ from the previously cited prior art in calling for the heating member to be a light source. But heating smoking elements with radiant heat lamps is well known in the art. RU2073472, for example, discloses heating smoking material 5 with a radiant heat lamp 4 to smoke fish products. See abstract and clipped image. As is well known in the art, radiant heat lamps heat up and cool down more quickly than

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resistive heating elements thus enabling more precise control of the heating process.

In view of RU2073472, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a light source to heat the smoking material of Whitefield (US 6,035,770) to use a heat source that heated up and cooled down more quickly than resistive heating elements thus enabling more precise control of the heating process.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP3-125818 in view of Ko (US 5,823,099), or alternatively, Whitefield (US 6,035,770) in view of RU2073472 and further in view of Ko. The claims differ from the previously cited prior art in calling for a halogen lamp. But halogen lamps are well known radiant heat sources in electrically-heated grills. Ko (US 5,823,099), for example, discloses providing a plurality of halogen lamps 3. As is well known in the art, halogen lamps are preferred in radiant heating applications in view of their quick heat up and cool down and wide availability. In view of Ko (US 5,823,099), it would have been obvious to one of ordinary skill in the art at the time of the invention to provide halogen lamps in the previously described apparatus to use a radiant heat source with quick heat up and cool down and wide availability.

### ***Response to Arguments***

Applicant's arguments have been considered but are deemed to be moot in view of the new grounds of rejection.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Jeffery whose telephone number is (571) 272-4781. The examiner can normally be reached on Monday - Thursday from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans, can be reached on (571) 272-4777. All faxes should be sent to the centralized fax number at (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "John A. Jeffery", with a long, sweeping horizontal stroke extending to the right.

**JOHN A. JEFFERY  
PRIMARY EXAMINER**

**5/31/05**